Nova Scotia Utility and Review Board
Annual Accountability Report
For the Fiscal Year Ended March 31, 2017

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Accountability Statement

The Accountability Report of the Nova Scotia Utility and Review Board for the year ended March 31, 2017, is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Board's Statement of Mandate for the fiscal year 2016-2017. The reporting of the Board's outcomes necessarily includes estimates, judgements and opinions by management.

We acknowledge that this Accountability Report is the responsibility of the Board's management. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Board's 2016-2017 Statement of Mandate.

Peter W. Gurnham, QC, Chair

Paul G. Allen, CPA, CA, Executive Director

Introduction

This Accountability Report reflects on progress made in achieving the outcomes set out in the 2016-2017 Statement of Mandate for the Board. The Board recommends that this Accountability Report be read in conjunction with that Statement of Mandate.

Financial Results

Nova Scotia Utility & Review Board - Estimated Budget Expenditures				
	Budget 2016-2017	Actual 2016-2017	Variance	See Notes
	000's	000's	000's	
Revenues (non-capital):				
Operating Grant from Province of Nova Scotia	1,970	1,970	-	
Recoveries from utilities and others	3,764	3,617	(147)	
Unbudgeted operations	-	2,839	2,839	1
Total revenues	5,734	8,426	2,692	
Expenditures (non-capital):				
Budgeted	5,895	5,650	(245)	
Unbudgeted operations	-	2,838	2,838	1
Total expenditures	5,895	8,488	2,593	
Net surplus or (deficit)	(161)	(62)	99	
Restricted & unrestricted surplus, beginning of year	1,795	1,795	-	
Restricted & unrestricted surplus, end of year	1,634	1,733	99	2
Funded Members and staff (FTE's)	41	41	-	

Notes:

1. Consultants are engaged by the Board to provide advice related to matters such as utility and natural gas operations and to provide expert testimony during hearings. Consulting fees for specific hearings are generally recovered directly from the entities involved. Expenses and recoveries relating to large hearings cannot be reasonably predicted or estimated in advance, accordingly, no provision is made for these activities in the budget. The Board also recovers certain transcription, copying and other direct expenses from various sources.

2. The complete audited financial statements of the Board are published annually in Part II of the Public Accounts for the Province of Nova Scotia. The 2016-2017 financial statements were prepared in accordance with Canadian Public Sector Accounting Standards as issued by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants.

Measuring Our Performance

The core mandate of the Board is to fairly and independently resolve matters in an efficient and effective manner. Performance measurement in a quasi-judicial context must be carefully designed due to the "custom" or "unique" nature of many applications and appeals. For example, some hearings require review of large amounts of evidence, involve many parties, and can take a number of months to schedule and complete. Other matters may only require a review of small amounts of evidence and, after scheduling, need only a few days to complete. Activity and speed measures do not equate to quality of decision making or due legal process. Regardless of the type of hearing the primary emphasis must always be on producing an unbiased, timely, fair and legally correct decision.

Desired outcome:	Independently and fairly resolve matters in a timely fashion.
Measures:	Percentage of hearing decisions issued within target or legislated number of days from receipt of final information.
Targets:	95% or more of hearing decisions released within target number of writing days from receipt of final information.
What do these measures tell us?	These measures show how timely the Board is at resolving matters.

Where are we now and reporting on 2016-2017 targets?

As can be seen from Schedule 1 below there is a combined success rate of 90.9% for all cases (2015-2016: 93.3%). This is below the target set by the Board.

Variations in average times can be expected from year to year and with changes in the mandates assigned to the Board. Larger, more complex hearings may take more time to decide and cause the average to increase. Conversely, larger numbers of single issue hearings take less time to decide and cause the average to decrease. We attempt to minimize the time it takes to issue decisions for matters where there is a significant public interest or financial impact.

The success rate for 90 day matters was down from the preceding year at 89.6% (2015-2016: 92.6%). During the year a total of 42 complaints were received relating to stormwater in Halifax Regional Municipality. A number of these matters were delayed pending the outcome of an application by Halifax Regional Water Commission to amend the rates and terms for stormwater. A total of 20 of those complaints exceeded the target writing time. Had those matters not been delayed the success rate for 90 day matters would have been approximately 94.0%.

The overall success rate for 60 day matters was up slightly at 94.2% (2015-2016: 92.4%).

Within the 60 day category a total of ten planning matters were decided with the writing time success rate increasing to 60% (2015-2016: 33.3%) although the average writing time increased to 56.6 days (2015–2016: 50 days).

For the decision writing time of 30 days the Board met the target for the one matter in this category for a 100% success rate. (2015-2016: 100%).

For the decision writing time of 15 days the Board succeeded in meeting the target for 100% of the five matters decided. This is consistent with the prior year. (2015-2016: 100.0%).

The success rate for 10 day matters was 100.0%. This is consistent with the prior year (2015-2016: 100.0%).

Average decision times by mandate are presented in Schedule 2.

Where do we want to be?

Success is measured against the target writing times for the specific type of matter. Additional targets, as may be established by statute or the Board, may be added in future. At this time we wish to continue to have a success rate that is as high as possible while respecting the primary emphasis of producing an unbiased, timely, fair and legally correct decision. No targets have been set for average times to decision in recognition of the higher priority being placed on fairness and correctness. The information will continue to be monitored and the averages kept as low as possible.

Schedule 1 – Success by Writing Time

Summary results for compliance with policy on decision production times are as follows. (see Note 1 on next page):

Decision writing targets[1]	2016-2017			2015-2016		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
90 days	452	405	89.6%	377	349	92.6%
60 days	86	81	94.2%	79	73	92.4%
30 days	1	1	100.0%	1	1	100.0%
15 days	5	5	100.0%	3	3	100.0%
10 days	25	25	100.0%	47	47	100.0%
Combined	569	514	90.9%	507	473	93.3%

[1] Decision writing times are measured from the date of receipt of final information to the date of issuance of the Decision. 10 day matters are expressed in working days. All others are calendar days.

Chart 1 – Comparison of Number of Matters by Writing Time[2]

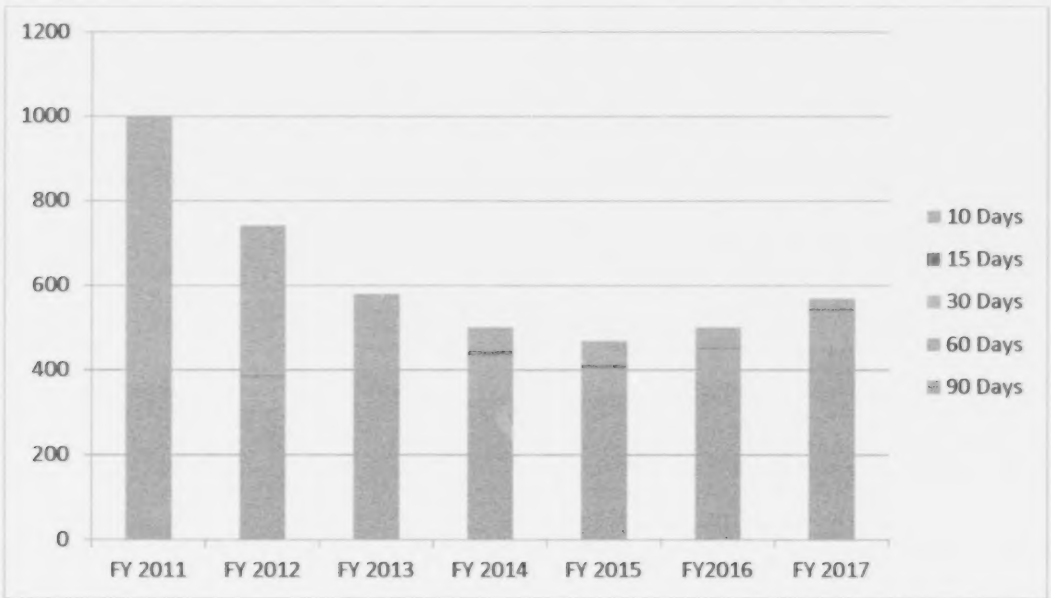
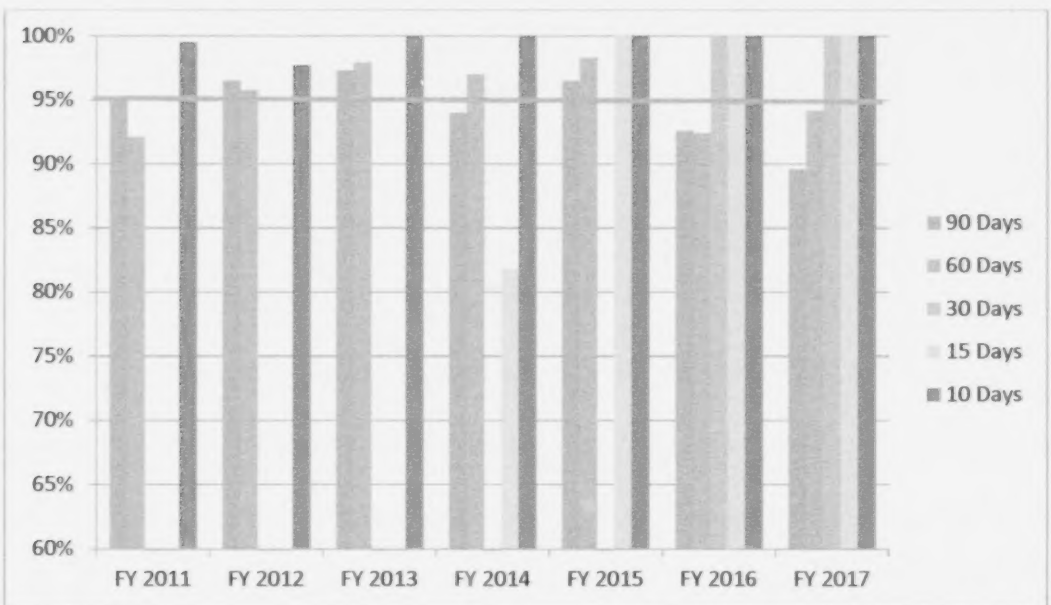


Chart 2 – Comparison of Success Rate by Major Writing Time Categories



[2] See notes on next page.

Notes:

1. The Board can receive a number of applications or appeals and, for simplicity and efficiency, choose to group them together into one proceeding. Ordinarily only one decision is issued for grouped matters. It is felt that the most useful reporting is to count grouped matters as a single matter.

2. Comparative figures for prior years show two other fundamental shifts in the number of matters by decision writing target. Those are explained as follows:

    a. In fiscal 2011-2012 there were a total of 338 matters relating to the Liquor Licensing mandate. A substantial part of that mandate was transferred to the Alcohol and Gaming Division of Service Nova Scotia and Municipal Relations in early January 2012. By comparison, only five such matters were dealt with in the 2012-2013 year. A significant portion of Liquor Licensing matters were classified as having a 10 day writing target.

    b. During the 2012-2013 fiscal year it was decided to change the classification of some types of insurance matters to 90 day writing targets and to begin measuring the writing time from receipt of the last information provided by the applicant as opposed to completion of analysis by staff or consultants. The intent of the change was to better monitor and shorten the overall processing time by including time for analysis in the writing time period. This change resulted in an increase in the number of 90 day matters and corresponding decrease in other categories.

Supplemental Information

Schedule 2 – Average Writing Time by Matter Type

The following Schedule shows the number of matters or cases decided by type and the average time from receipt of final information from the parties to release of a decision. Figures include all types of matters and do not separate applications or appeals which can be decided without an oral hearing from larger cases requiring one.

Average decision production times by area of jurisdiction are as follows (continued on following page):

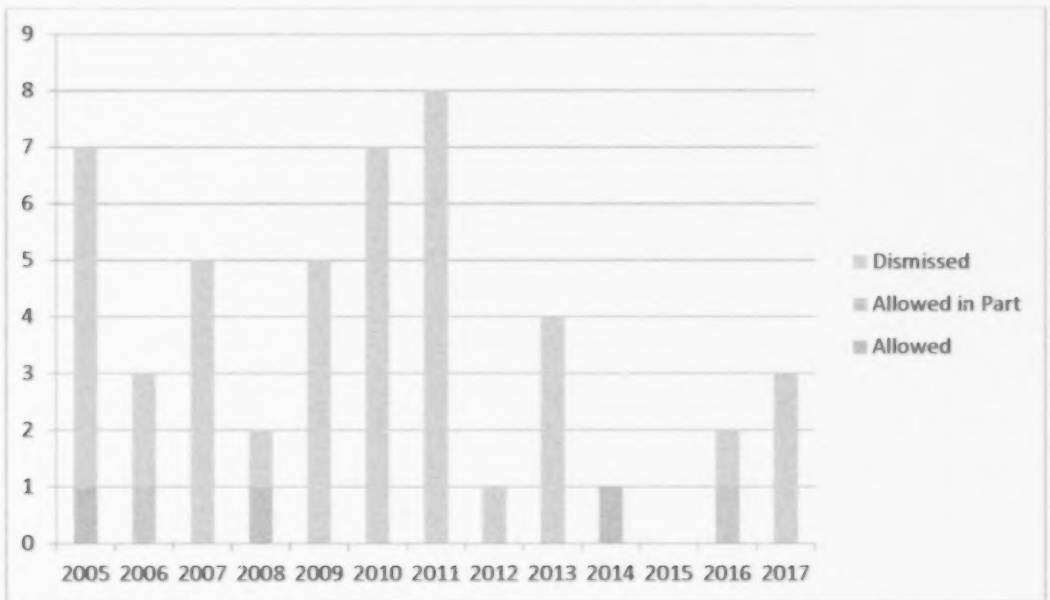
Jurisdiction / Mandate	2016-2017		2015-2016	
	Number of Decisions (all types)	Average Time to Decision (days)[3]	Number of Decisions (all types)	Average Time to Decision (days)
Gaming	19	2	12	1
Liquor	3	35	3	21
Theatre & Amusements	-	NA	-	NA
Assessment	33	27	17	20
Automobile Insurance	83	16	76	13
Criminal Injury Compensation	-	NA	-	NA
Electricity	170	34	124	44
Expropriation Compensation	7	139	1	0
Fire Safety	1	28	2	2
Heritage Properties	-	NA	-	NA
Halifax-Dartmouth Bridge Commission	-	NA	-	NA
Motor Carrier	49	2	62	6
Municipal & School Board Boundaries	16	33	31	33
Natural Gas	20	39	25	37
Payday Loans	-	NA	-	NA
Petroleum Product Pricing	53	4	54	0
Planning	13	45	9	50
Railways	-	NA	-	NA
Underground Hydrocarbon Storage	-	NA	-	NA
Water	47	21	51	24
Wastewater	55	71	40	42
Total	569		507	

[3] Where the average writing time is "0" all decisions were issued on the same day as the final information was received.

Appeals of Board Orders

Board orders can be appealed to the Nova Scotia Court of Appeal when a party feels the Board has incorrectly applied the law or its authority. Appeals must be filed within 30 days of the date of issuance of the order. The following chart shows the number of appeals relating to Board proceedings decided by the Court of Appeal in the last 13 years and the outcome.[4]

Chart 3 – Appeals Decided by Fiscal Year



Key:

"Dismissed" means the Court upheld the Board's decision.
"Allowed in Part" means the Court upheld parts of the Board's decision but overturned others.
"Allowed" means the Court overturned the entire Board decision.

[4] Note that there were no appeals related to the Board decided in the year ended March 31, 2015 by the Court of Appeal.

The *Public Interest Disclosure of Wrongdoing Act* was proclaimed into law on December 20, 2011. The Act provides for employees to be able to come forward if they reasonably believe that a wrongdoing has been committed or is about to be committed and they are acting in good faith. The Act also protects employees who do disclose from reprisals, by enabling them to lay a complaint of reprisal with the Labor Board.

A "wrongdoing" for the purposes of the Act is:

a) a contravention of provincial or federal laws or regulations;

b) a misuse or gross mismanagement of public funds or assets;

c) an act or omission that creates an imminent risk of a substantial and specific danger to the life, health or safety of persons or the environment; or,

d) directing or counselling someone to commit a wrongdoing.

The following is a summary of disclosures received by the Nova Scotia Utility and Review Board for fiscal 2016-2017:

Information Required under Section 18 of the Act	Fiscal Year 2016-2017
The number of disclosures received	0
The number of findings of wrongdoing	Not applicable
Details of each wrongdoing	Not applicable
Recommendations and actions taken on each wrongdoing	Not applicable

Appendix A - List of Statutes Containing Board Mandates

1. *Assessment Act*, R.S.N.S. 1989, c.23 as amended
2. *Consumer Protection Act*, R.S.N.S. 1989, c.92 as amended
3. *Education Act*, S.N.S. 1995-96, c.1 as amended
4. *Electrical Installation and Inspection Act*, R.S.N.S. 1989, c. 141 as amended
5. *Electricity Act*, S.N.S. 2004 c. 25 as amended
6. *Electricity Plan Implementation (2015) Act*, S.N.S. 2015, c.31
7. *Energy Resources Conservation Act*, R.S.N.S., 1989, c.147 as amended
8. *Expropriation Act*, R.S.N.S. 1989, c. 156 as amended
9. *Fire Safety Act*, S.N.S. 2002, c.6
10. *Gaming Control Act* (Part II), S.N.S. 1994-95, c. 4 as amended
11. *Gas Distribution Act*, S.N.S., 1997, c. 4 as amended
12. *Halifax-Dartmouth Bridge Commission Act*, R.S.N.S. 1989, c.192 as amended
13. *Halifax Regional Municipality Charter*, S.N.S. 2008, c.39
14. *Halifax Regional Municipality Water Commission Act*, S.N.S. 1963, c.55 as amended
15. *Heritage Property Act*, R.S.N.S. 1989, c.199 as amended
16. *Insurance Act*, R.S.N.S. 1989, c.231 as amended[5]
17. *Liquor Control Act*, R.S.N.S. 1989, c.260 as amended
18. *Maritime Link Act*, S.N.S. *2012*, c. 9
19. *Motor Carrier Act* (public passenger only), R.S.N.S. 1989, c.292 as amended
20. *Motor Vehicle Transport Act of Canada*, S.C. 1987, c.35 (Federal) as amended
21. *Municipal Government Act*, S.N.S. 1998, c.18 as amended
22. *Nova Scotia Power Finance Corporation Act*, R.S.N.S. 1989, c.351 as amended
23. *Nova Scotia Power Privatization Act*, S.N.S. 1992, c.8 as amended
24. *Petroleum Products Pricing Act*, S.N.S., 2005, c. 11
25. *Petroleum Resources Act*, R.S.N.S. 1989, c. 342 as amended
26. *Petroleum Resources Removal Permit Act*, S.N.S. 1999 c.7 as amended
27. *Pipeline Act*, R.S.N.S. 1989 c. 345 as amended
28. *Public Utilities Act*, R.S.N.S. 1989, c.380 as amended
29. *Railways Act*, S.N.S. 1993, c.11 as amended
30. *Revenue Act*, S.N.S. 1995-96, c.17 as amended
31. *Technical Safety Act*, S.N.S. 2008, c.10[6]
32. *Theatre and Amusement Act*, R.S.N.S. 1989, c. 466 as amended
33. *Underground Hydrocarbons Storage Act*, S.N.S. 2001, c. 37
34. *Utility and Review Board Act*, S.N.S. 1992, c. 11 as amended
35. *Victims' Rights and Services Act*, R.S.N.S. 1989, c.14 as amended

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[5] Automobile insurance only.
[6] Sections relating to the Board not yet fully proclaimed.